COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Western Massachusetts Electric Company	**)**	
Settlement Agreement	**)**	**DTE 04-106**

COMMENTS OF WESTERN MASSACHUSETTS INDUSTRIAL CUSTOMERS GROUP SETTLEMENT AGREEMENT

Now come General Electric Company, MeadWestvaco Corporation, and Solutia, Inc. (collectively the Western Massachusetts Industrial Customers Group "WMICG") and hereby provides the following initial comments regarding the Settlement Agreement among Western Massachusetts Electric Company ("WMECo") Massachusetts Attorney General ("AG") and Associated Industries of Massachusetts, Inc. ("AIM") filed on November 16, 2004 with the Department of Telecommunications and Energy ("Department"). The Settlement Agreement requests approval of a distribution rate increase of $6 million on January 1, 2005 and a further increase of $3 million on January 1, 2006. To date WMICG has issued three sets of discovery and reviewed responses of WMECo to the first set. Responses to sets two and three are not yet due based on the five day requirement. In addition, WMICG has reviewed the responses of WMECo to two sets of discovery propounded by the Department.

The filing is a request for a general increase in base rates which is subject to M.G.L. c. 164, s. 94 including required public notice and a hearing. In addition, the statute authorizes the suspension of the effective date of any rate increase request for up to six months from the requested effective date or May 1, 2005. While the AG and WMECo indicated at the initial procedural conference that if the Settlement was not approved by December 30, 2005, a

suspension of the rates proposed in the Settlement Agreement for six months was not acceptable. The Department should not be pressured into approving the Settlement Agreement based on the suggested alternative of a $16.931 million rate increase that WMECo would file. Preliminary review of the alternate cost of service filing and response to some of the information requests suggests that all or a portion of the requested increase of $16.931 million is not in accord with Department precedent. The Department should at least suspend the rates for one month and convene a technical conference to review and understand the implications of the filing as outlined below.

WMICG would point out the following issues that must be carefully reviewed:

A. Is a rate of return of 11% on common equity appropriate where the proposed capital structure contains approximately 60% of common equity and transmission costs and revenues, transition costs and revenues and standard offer and default service costs and revenues are subject to full reconciliation with carrying charges on any under-recovered amount?

B. The Company has included prepaid pension asset, net of deferred taxes of $44.101 million as an addition to rate base and requested a rate of return on said amount without adopting a fully reconciling pension adjustment provision as in NSTAR Companies, DTE 03-47. Exhibit C, Sch. B-1.0. There is no evidence that this amount of overfunding was not provided by ratepayers in rates plus investment gain on ratepayer provided funds. During 2003 and 2004 actual pension expense reported by WMECo was a negative $4.987 million and $2.132 million respectively. These funds were not returned to ratepayers. In addition, if the negative pension expense for 2005 is greater than the estimated $.371 million ratepayers will not receive a credit of this amount. The foregoing figures are per the Company filing in this case.

The Actuarial Report of Hewitt Associates dated July 2004 for Northeast Utilities including WMECo, IR DTE 2-39 Bulk, indicates at p.44 that the actual pension expense for 2003 was a negative $7,870,338 and for 2004 is a negative $4,610,270. These numbers must be reconciled with the Company's filing. The Actuarial Report states that the WMECo pension plan was over-funded as of January 1, 2004 by $91.854 million. There is no basis in the Actuarial Report for the 2005 negative pension cost estimate used by the Company and no provision that ratepayers would benefit if the level of negative pension expense approached the 2003 or 2004 levels suggested in the Actuarial Report. The Company has not proposed a reconciling pension adjustment factor. Without more evidence the rate base adjustment of $44 million should be rejected. Accordingly, the proposed revenue deficiency would be reduced by $5.724 million.

C. In Exhibit C, Attachment 2, Schedule 8, WMECo has failed to properly calculate income taxes. WMECo has not deducted the interest expense indicated from the return on rate base. This error has overstated income tax expense by approximately $3 million. Also on Schedule 1 of Attachment 2 the Company has incorrectly calculated return on rate base net of income taxes. Schedule 8 indicates the return including income taxes is $43.630 million and income taxes are $17.087 million. The return net of taxes on Schedule 1, based on the Company's figures should be the difference between the foregoing figures or $26.547 million and not $29.6 million. Another $3 million error.

D. WMICG has tried to obtain sufficient information to demonstrate that the Company has failed to provide a pro forma adjustment to booked 2003 revenues for those special contract customer that were special contract customers for all or a portion of 2003 and will no longer be special contract customers in 2005. To date the Company has not provided sufficient

information. However, from the filed responses to date it is clear that Mead Paper and University of Massachusetts at Amherst special contracts will end by March 1, 2005. IR DTE 2-51. No pro forma income adjustment is included for either of these contracts or any other special contract that terminated in 2003 or 2004 in the pro formed cost of service in Exhibit C. There should also be an adjustment in any revenue sharing arrangement to exclude the impact of any discount contracts on ratepayers in violation of Department precedent.

E. The Settlement Agreement provides for revenue sharing without any clear guidance. This is especially critical in view of the manner in which WMECo has calculated its return on common equity in a filing to the Department. In the 2003 Annual Return to the Department, DTE 2-1 Bulk, the Company artificially reduced its ROE by a "Reserve for Service Quality Penalties" of $789,720. This adjustment reduced the ROE more than 50 basis points. There are several objections to this adjustment. First, WMECo was not in 2003 nor is it now subject to any Service Quality penalties as it does not have a PBR plan or a merger plan approved by the Department. See, Letter Order DTE 99-84, at 5 (April 17, 2002). This fact was known almost two years prior to the 2003 ROE calculation filing by WMECo. Thus, there is no reasonable basis to create a reserve for possible SQ penalties for calendar year 2003. Second, there are policy issues as to whether the SQ penalties should be allowed as a deduction for ROE calculation purposes even if the Company actually incurred a SQ penalty for poor service quality. The Settlement provides that no PBR filing will be made until after approval of the next rate increase filing is approved by the Department, to be effective no earlier than January 1, 2006. Thus, there can be no SQ penalty during the proposed term of the Settlement.

F. The Settlement Agreement at p. 2 indicates that the distribution increase "will be applied on an equal basis to each rate class." The attached schedules indicate that the

distribution rate increase for 2005 is applied to each kWh sold by WMECo at the rate of $0.00146. No allocated cost of service study was presented which indicates that the method proposed is just or reasonable. In fact, WMECo has not presented an allocated cost of service study to the Department since its last base rate increase in DPU No. 91-290 approximately thirteen years ago. Even if the current distribution rates are assumed to be properly allocated to each rate class, the increase should not be on an equal mills per kWh to each rate class unless the underlying distribution rates for each class are the same. Attachment 3 of Exhibit A of the filing clearly indicates that this is not the case. There is good reason for this as some rate classes are served at primary voltage while others are served at secondary voltage thus requiring the installation of additional rate base to serve such customers. Thus, the proposed allocation of the distribution rate increase is unjust and unreasonable as proposed. Without the benefit of an allocated cost of service study as a reference any rate increase, if any, should be allocated to each rate class based on an equal percentage of current distribution revenue.

F. The Settlement filing requires clarification regarding Rate PR and how it will operate after the termination of standard offer service as of March 1, 2005. Currently Rate PR includes charges for standard offer service at the current rate of 5.607 cents per kWh. After March 1, 2005 it is unclear if there will be any increase or decrease in Rate PR based on the then current default service rate. If there is an increase or decrease in Rate PR based on the default rate there is no clear mechanism of how to calculate the increase or decrease. The Company has stated in response to IR WMICG 1-10 and 1-11 that it "anticipates" a Rate PR filing in early 2005 that will provide a credit equal to the current standard offer charge of 5.607 cents per kWh and that the customer would be able to purchase either Default Service at the applicable rate or

competitive generation supply on and after March 1, 2005. WMICG agrees with these provisions and would request that the Company's "anticipation" be a condition of any approval.

In conclusion WMICG states as follows:

1. The Department should suspend the rate increase requested in the Settlement of $6 million on January 1, 2005 and an additional increase of $ 3 million on January 1, 2006 to allow sufficient opportunity for discovery and clarification concerning the suggested alternate rate request of $16.931 million. Based on available data there does not appear to be evidence that would justify a $6 million increase;. the $16.931 million alternative cost of service filing does not appear to have any validity. In the alternative, the Department should reject the Settlement in its entirety.

2. Any increase in distribution rates, if any, should be allocated based on current distribution revenue for each rate class and not on an equal mills per kWh basis to maintain the current status quo.

3. Any revenue sharing, if any, should reflect an income adjustment to reflect any rate discount agreements and should disallow any penalty expense or deferrals not previously approved by the Department, including without limitation any Service Quality Penalty deferral or expense.

4. Rate PR should be clarified regarding the application of the current standard offer service charge as a credit with the customer having the ability to purchase either default Service or competitive supply after the termination of the standard offer service tariff on March 1, 2005.

Respectfully submitted,

GENERAL ELECTRIC COMPANY,
MEADWESTVACO CORPORATION,
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by their attorneys,

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Date: December 15, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in these proceedings in accordance with the requirements of 220 CMR 1.05(1) (Department's Rules of Procedure and Practice).

Andrew J. Newman

Date: December 15, 2004